

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

February 12, 1991

SUBJECT: Taxation and Revenue - Property Taxation Of
Installed Carpeting.

SYLLABUS: Whether carpeting is to be taxed for property
tax purposes as real property or personal
property is dependent upon a factual determi-
nation.

TO: Honorable Kenneth Holt
Horry County Auditor

FROM: Joe L. Allen, Jr. *JLA*
Chief Deputy Attorney General

QUESTION: For property tax purposes, is installed carpet-
ing to be taxed as real property or personal property?

APPLICABLE LAW: S. C. Code Ann. Section 12-37-10(1) and
(2) (1976).

DISCUSSION:

Section 12-37-10(1) and (2) provides that:

- (1) 'Real property' shall mean not only land, city, town and village lots but also all structures and other things therein contained or annexed or attached thereto which pass to the vendee by the conveyance of the land or lot;
- (2) 'Personal property' shall mean all things, other than real estate, which have any pecuniary value, and moneys, credits, investments in bonds, stocks, joint-stock companies or otherwise;

It is seen from the definition of "real property" that the resolve of the question presented is subject to a factual determination. The basic fact to be determined is whether

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the carpeting is annexed or attached so that it would pass to the vendee by conveyance of the land or lot. Because the resolve is dependent upon the surrounding facts, we cannot render a controlling opinion.

We do advise, however, that some facts to be considered are (a) the intention of the parties, (b) the general nature of the building and the relationship of the carpeting thereto, (c) how the carpeting is affixed, and (d) whether it is a material or necessary part of the flooring or for convenience and pleasure. 55 A.L.R.2d 1044; Woods v. Federal Insurance Co., 338 So.2d 1133, Florida District Court of Appeals, 2nd District (1976); and United Bonding Insurance Co. v. Minichiello, 221 So.2d 220, Florida District of Court of Appeals, 1st District (1969).¹

CONCLUSION:

Whether carpeting is to be taxed for property tax purposes as real property or personal property is dependent upon a factual determination.

JLAJr:wcg

¹As a guideline, we suggest that it be first determined if the carpeting was sold with the building. If so, the carpeting would generally be a part of the realty and taxed as such. Also, if the carpeting is over subflooring or flooring not customarily used in similar buildings, it most probably is realty. If, however, the carpet is decorative, not firmly affixed and to service the uses of the occupants alone, it would generally be considered personal property.

An important but not necessarily controlling element for tax purposes is the intention of the owner of the realty or a tenant thereof. If the owner of the building in which the carpet is located treats the carpeting as personal property, there would exist a strong presumption that the carpeting is personal property. When the occupant is someone other than the owner of the realty, it would be necessary to consider facts other than the intention of the occupant or owner.